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09/234,695	01/21/1999	ANDRE-ROGER HENRY DELLEVI		5728

7590

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EXAMINER

VAN DOREN, BETH

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 09/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/234,695

Applicant(s)

DELLEVI ET AL.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. The following is a non-final, first office action on the merits. Claims 1-10 are pending.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2-5, and 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 1, 2-5, and 8-10 assert the invention as an article of manufacture. However, it is unclear as to how the recited elements of a computer with memory and a computer usable medium with computer-readable program code compose an article of manufacture. The claims should more appropriately be directed towards a system or apparatus. Clarification and correction are required.

4. Claim 4 recites the limitation "display one of the notifications from the third list". There is insufficient antecedent basis for this limitation in the claims. Neither claim 4 nor claim 2, the parent claim on which claim 4 depends, reference "the third list". Base on the wording of claim 4, this limitation has been construed as "display one of the notifications from the additional list" for examination purposes. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Donnelly et al. (U.S. 6,049,776).

7. As per claim 1, Donnelly et al. teaches an article of manufacture, comprising:

a computer with memory including stored therein a first list of employees each having a criteria of training data associated therewith, a second list of work area functions each having a criteria of training data associated therewith, a third list of notifications each corresponding to a unique combination of the employees and the work area functions based on the training data associated therewith, and a fourth list of time shifts of each of the employees wherein each time shift has one of the work area functions (See column 14, lines 38-44. See column 9, lines 38-41, column 10, lines 9-21, and column 11, lines 18-24, which disclose a first list containing employees and a criteria of training data associated with said employees. See column 10, lines 65-67, column 11, lines 1-14, column 18, lines 61-64, and column 19, lines 35-38, which discuss a second list of stored data containing work area functions and each work area function's criteria of training data. See column 5, lines 15-17, column 13, lines 14-17, column 17, lines 22-25, column 22, lines 22-35, and column 29, lines 18-22 and 40-43, which discuss a third list of

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notifications each corresponding to a unique combination of employees and work area functions.

Finally, see column 10, lines 23-29 and 40-46, and column 14, lines 55-60, which discuss a fourth list of time shifts of each of the employees wherein each time shift has one of the work area functions); and

a computer usable medium having a computer-readable program code medium embodies therein for controlling the transfer of a shift change in a place of employment, the computer-readable program code medium in said article of manufacture comprising:

computer-readable program code for causing the computer to verify an identity of a management user (See column 13, lines 14-17, column 16, lines 8-15, column 18, lines 17-19, column 19, lines 4-7, column 21, lines 62-67, and column 31, lines 45-54, which disclose the computer being caused to verify the identity of a management user of the system by the logging or signing on of said user);

computer-readable program code for causing the computer to allow the editing of the first, second, third, and fourth lists only after the verification of the identity of the management user (See column 13, lines 40-45, column 14, lines 63-67, column 16, lines 50-67, column 19, lines 4-7, and column 31, lines 45-54, which discuss a computer being caused to allow the editing of the first, second, third, and fourth lists of data stored on the system after the identity of the editing user has been verified through the logging/signing on of said user);

computer-readable program code for causing the computer to allow the browsing and printing of the fourth list (See figure 14, column 3, lines 25-29, column 4, lines 28-39, column 10, lines 22-49, and column 16, lines 1-7, which discuss the computer being caused to allow for the browsing and printing of the fourth list);

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computer-readable program code for causing the computer to verify an identity of an owner of a shift (See column 10, lines 22-29, which discuss the identification of the owner of a shift of the calendar. See also column 14, lines 55-67, column 16, lines 16-34, which discuss verifying the identity of the owner of a shift);

computer-readable program code for causing the computer to verify an identity of a recipient of a shift (See column 14, lines 55-67, column 17, lines 7-13 and 25-30, column 19, lines 24-25, column 20, lines 51-57, and column 26, lines 30-35 and 40-42, which discuss using the computer to verify an identity of a recipient of a shift);

computer-readable program code for causing the computer to automatically edit the fourth list by transferring a shift of the owner to the recipient only if the training data of the recipient matches that of the work area function associated with the shift of the owner (See column 13, lines 21-26, 35-43, column 14, lines 60-67, column 16, lines 55-67, column 17, lines 7-12, 21-30, and 44-49, column 19, lines 4-7 and 24-27, column 22, lines 46-50, column 23, lines 1-2, column 26, lines 30-42 and 60-65, all of which discuss automatically editing the fourth list to reflect the deleting of a shift of an owner and the adding of said shift to a recipient, wherein both the owner and the recipient have training data that matches the training data required by said shift); and

computer-readable program code for causing the computer to display one of the notifications from the third list which corresponds to the combination of the training data of the recipient and the training data of the transferred work area function (See column 29, lines 9-22 and 34-43, wherein the computer is caused to display a notification that corresponds to the

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matching of the training data of the recipient and the training data of the transferred work area function).

8. As per claim 2, Donnelly et al. discloses an article of manufacture, comprising:

a computer with memory including stored therein a first list of employees each having a criteria of eligibility data associated therewith and a second list of work area functions each having a criteria of eligibility associated therewith (See column 14, lines 38-44. See column 9, lines 38-41, column 10, lines 9-21, and column 11, lines 18-24, which disclose a first list containing employees, each employee having a criteria of eligibility data stored with his/her record. See column 10, lines 65-67, column 11, lines 1-14, column 18, lines 61-64, and column 19, lines 35-38, which discuss a second list of stored data containing work area functions and the criteria of eligibility concerning the ability to perform each work area functions stored with its record);

a computer usable code having a computer readable program code medium embodied therein for controlling the transfer of a shift change in a place of employment, the computer readable program code medium in said article of manufacture comprising:

computer-readable program code for causing the computer to ascertain an identity of an owner of a shift (See column 10, lines 22-29, which discuss the identification of the owner of a shift of the calendar. See also column 14, lines 55-67, column 16, lines 16-34, which also discuss the ability to ascertain the identity of the owner of a shift);

computer-readable program code for causing the computer to ascertain an identity of a recipient of a shift (See column 14, lines 55-67, column 17, lines 7-13 and 25-30, column 19,

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lines 24-25, column 20, lines 51-57, and column 26, lines 30-35 and 40-42, which discuss using the computer to ascertain an identity of a recipient of a shift); and

computer-readable program code for causing the computer to approve the transferring of a shift of the owner to the recipient only if the eligibility data of the recipient matches that of the work area function associated with the shift of the owner (See column 13, lines 21-26, 35-43, column 14, lines 60-67, column 16, lines 55-67, column 17, lines 7-12, 21-30, and 44-49, column 19, lines 4-7 and 24-27, column 22, lines 46-50, column 23, lines 1-2, column 26, lines 30-42 and 60-65, all of which discuss automatically editing the schedule to reflect the deleting of a shift of an owner and the adding of said shift to a recipient, wherein both the owner and the recipient have training data that matches the training data required by said shift. The recipient's eligibility data fits the required profile of the shift and therefore the user causes the computer to approve the shift change).

9. As per claim 3, Donnelly et al. teaches an article of manufacture wherein the memory of the computer further includes an additional list of time shifts of each of the employees wherein each time shift has one of the work area functions associated therewith and computer-readable program code for causing the computer to allow the browsing and printing of the additional list (See column 10, lines 23-29 and 40-46, and column 14, lines 55-60, which discuss an additional list of time shifts of each of the employees wherein each time shift has one of the work area functions. See figure 14, column 3, lines 25-29, column 4, lines 28-39, column 10, lines 22-49, and column 16, lines 1-7, which discuss the computer being caused to allow for the browsing and printing of this list).



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10. As per claim 4, Donnelly et al. discloses an article of manufacture wherein the memory of the computer further includes an additional list of notifications each corresponding to a unique combination of the employees and the work area functions based on the eligibility data associated therewith and further included is computer-readable program code for causing the computer to display one of the notifications from the third list which corresponds to the combination of the eligibility data of the recipient and the eligibility data of the transferred work area function (See column 5, lines 15-17, column 13, lines 14-17, column 17, lines 22-25, column 22, lines 22-35, and column 29, lines 18-22 and 40-43, which discuss a third list of notifications each corresponding to a unique combination of employees and work area functions. See column 29, lines 9-22 and 34-43, wherein the computer is caused to display a notification that corresponds to the matching of the training data of the recipient and the training data of the transferred work area function).

11. As per claim 5, Donnelly et al. teaches an article of manufacture further including computer-readable program code for causing the computer to verify an identity of a management user and computer-readable program code for causing the computer to allow the editing of the lists only after the verification of the identity of the management user (See column 13, lines 14-17, column 16, lines 8-15, column 18, lines 17-19, column 19, lines 4-7, column 21, lines 62-67, and column 31, lines 45-54, which disclose the computer being caused to verify the identity of a management user of the system by the logging or signing on of said user. See column 13, lines 40-45, column 14, lines 63-67, column 16, lines 50-67, column 19, lines 4-7, and column 31, lines 45-54, which discuss a computer being caused to allow the editing of the lists of data stored

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on the system after the identity of the editing user has been verified through the logging/signing on of said user).

12. As per claim 6, Donnelly et al. teaches a computer-implemented method for processing signals related to a first list of employees each having a criteria of eligibility data associated therewith and a second list of work area functions each having a criteria of eligibility data associated therewith, the method comprising:

ascertaining an identity of an owner of a shift (See column 10, lines 22-29, which discuss the identification of the owner of a shift of the calendar. See also column 14, lines 55-67, column 16, lines 16-34, which also discuss the ability to ascertain the identity of the owner of a shift);

ascertaining the identity of a recipient of a shift (See column 14, lines 55-67, column 17, lines 7-13 and 25-30, column 19, lines 24-25, column 20, lines 51-57, and column 26, lines 30-35 and 40-42, which discuss using the computer to ascertain an identity of a recipient of a shift); and

approving the transferring of a shift of the owner to the recipient only if the eligibility data of the recipient matches that of the work area function associated with the shift of the owner (See column 13, lines 21-26, 35-43, column 14, lines 60-67, column 16, lines 55-67, column 17, lines 7-12, 21-30, and 44-49, column 19, lines 4-7 and 24-27, column 22, lines 46-50, column 23, lines 1-2, column 26, lines 30-42 and 60-65, all of which discuss automatically editing the schedule to reflect the deleting of a shift of an owner and the adding of said shift to a recipient, wherein both the owner and the recipient have training data that matches the training data

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required by said shift. The recipient's eligibility data fits the required profile of the shift and therefore the user causes the computer to approve the shift change).

13. As per claim 7, Donnelly et al. teaches a computer-implemented method and further including the step of allowing the editing of the lists only after the verification of the identity of the management user (See column 13, lines 14-17, column 16, lines 8-15, column 18, lines 17-19, column 19, lines 4-7, column 21, lines 62-67, and column 31, lines 45-54, which disclose the computer being caused to verify the identity of a management user of the system by the logging or signing on of said user. See column 13, lines 40-45, column 14, lines 63-67, column 16, lines 50-67, column 19, lines 4-7, and column 31, lines 45-54, which discuss a computer being caused to allow the editing of the lists of data stored on the system after the identity of the editing user has been verified through the logging/signing on of said user).

14. As per claim 8, Donnelly et al. discloses an article of manufacture, comprising:

a computer with a memory having stored therein a list of employees (See column 9, lines 38-41, column 10, lines 9-21, column 11, lines 18-24, and column 14, lines 38-44, which discloses a computer with a memory that stores a list of employees);

a computer usable code having a computer readable program code medium embodied therein for controlling the transfer of a shift change in a place of employment, the computer readable program code medium in said article of manufacture comprising:

computer-readable program code for causing the computer to ascertain the identity of an owner of a shift (computer-readable program code for causing the computer to verify an identity of an owner of a shift (See column 10, lines 22-29, which discuss the identification of the owner

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of a shift of the calendar. See also column 14, lines 55-67, column 16, lines 16-34, which discuss verifying the identity of the owner of a shift);

computer-readable program code for causing the computer to ascertain an identity of a recipient of a shift (See column 14, lines 55-67, column 17, lines 7-13 and 25-30, column 19, lines 24-25, column 20, lines 51-57, and column 26, lines 30-35 and 40-42, which discuss using the computer to verify an identity of a recipient of a shift); and

computer-readable program code for causing the computer to approve the transferring of a shift of the owner to the recipient only upon certain criteria being met (See column 13, lines 21-26, 35-43, column 14, lines 60-67, column 16, lines 55-67, column 17, lines 7-12, 21-30, and 44-49, column 19, lines 4-7 and 24-27, column 22, lines 46-50, column 23, lines 1-2, column 26, lines 30-42 and 60-65, all of which discuss automatically editing the schedule to reflect the deleting of a shift of an owner and the adding of said shift to a recipient, wherein both the owner and the recipient have training data that matches the training data required by said shift. The recipient's eligibility data fits the required profile of the shift and therefore the user causes the computer to approve the shift change).

15. As per claim 10, Donnelly et al. discloses an article of manufacture wherein the criteria is whether any shifts of at least one of the owner and recipient overlap (See column 5, lines 9-11, and column 21, lines 53-61, wherein conflicts and the schedule conflict screen is disclosed whereby overlaps are detected).

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Donnelly et al.

(U.S. 6,049,776).

17. As per claim 9, Donnelly et al. teaches an article of manufacture wherein transferring of a shift of the owner to the recipient occurs only upon certain criteria being met (See column 13, lines 21-26, 35-43, column 14, lines 60-67, column 16, lines 55-67, column 17, lines 7-12, 21-30, and 44-49, column 19, lines 4-7 and 24-27, column 22, lines 46-50, column 23, lines 1-2, column 26, lines 30-42 and 60-65, all of which discuss automatically editing the schedule to reflect the deleting of a shift of an owner and the adding of said shift to a recipient, wherein both the owner and the recipient have training data that matches the training data required by said shift. The recipient's eligibility data fits the required profile of the shift and therefore the user causes the computer to approve the shift change).

However, Donnelly et al. does not expressly disclose that this criteria is a length of time before the requested shift transfer.

Time is an important measure in business that is used to ensure that specific business events occur. For example, in order for an employee to withdraw from employment with a business, he or she must give notice a specific length of time before quitting so that the business can find someone to fill said employee's responsibilities before said employee leaves. Donnelly et al. discusses assigning employees to scheduled projects and time-oriented tasks of a business. It would have been obvious to one of ordinary skill in the art at the time of the invention to

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require a specific length of time notice for a transfer of shift in order to ensure the timely finish of the project by making sure that all tasks involved are appropriately staffed.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fields et al. (U.S. 5,111,391) discusses storing tasks, task definitions, employee profiles with associated skill information, and a master schedule. These stored information lists are used with each other to create an appropriate schedule.

Andre et al. (U.S. 6,278,978) teaches a method for scheduling employees into shifts and then evaluating the schedule and reassigning the employees.

Endo (U.S. 5,974,392) discusses allocating and reallocating tasks using a manager server that takes into account the personal data of each person and their ability to perform a defined task.

Sprout ("Scheduling your forces with a PC") discloses software for scheduling employees that allows the manager to transfer the hours of the employee.

Holzberg ("PeopleScheduler 3.0") allows a manager to create and manage employee schedules. The software handles staff scheduling, keeps track of employee information, their shifts and information concerning these shifts, etc.

Feibus ("Make short work of employee scheduling") discloses software for creating employee schedules and allowing for the shifting of these schedules. The software can store information about the employee and later modify this information.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

*bvd*

bvd

September 24, 2002

*Susanna Diaz*  
Susanna Diaz  
Patent Examiner  
Art Unit 3623